

1996 ORC Ann. 2151.313

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**PAGE'S OHIO REVISED CODE ANNOTATED; > TITLE XXI [21] COURTS--PROBATE--JUVENILE >
CHAPTER 2151: JUVENILE COURT > [PROCEDURE IN CHILDREN'S CASES]**

[§ 2151.31.3] § 2151.313 Fingerprints and photographs.

(A)

- (1)** Except as provided in division (A)(2) of this section and in sections 109.57, 109.60, and 109.61 of the Revised Code, no child shall be fingerprinted or photographed in the investigation of any violation of law without the consent of the juvenile judge.
- (2)** Subject to division (A)(3) of this section, a law enforcement officer may fingerprint and photograph a child without the consent of the juvenile judge when the child is arrested or otherwise taken into custody for the commission of an act that would be a felony if committed by an adult, and there is probable cause to believe that the child may have been involved in the commission of the act. A law enforcement officer who takes fingerprints or photographs of a child under division (A)(2) of this section immediately shall inform the juvenile court that the fingerprints or photographs were taken and shall provide the court with the identity of the child, the number of fingerprints and photographs taken, and the name and address of each person who has custody and control of the fingerprints or photographs or copies of the fingerprints or photographs.
- (3)** This section does not apply to a child who is fourteen years of age or older and under eighteen years of age and who has been arrested or otherwise taken into custody for committing an act that is a category one offense or a category two offense, as defined in section 2151.26 of the Revised Code, has been adjudicated a delinquent child for committing an act that is a category one offense or a category two offense, has been convicted of or pleaded guilty to a category one offense or a category two offense, or is a child with respect to whom there is probable cause to believe that the child may have committed an act that is a category one offense or a category two offense.

(B)

- (1)** Subject to divisions (B)(4), (5), and (6) of this section, all fingerprints and photographs of a child obtained or taken under division (A)(1) or (2) of this section, and any records of the arrest or custody of the child that was the basis for the taking of the fingerprints or photographs, initially may be retained only until the expiration of thirty days after the date taken, except that the court may limit the initial retention of fingerprints and photographs of a child obtained under division (A)(1) of this section to a shorter period of time and except that, if the child is adjudicated a delinquent child for the commission of an act described in division (B)(3) of this section or is convicted of or pleads guilty to a criminal offense for the commission of an act described in division (B)(3) of this section, the fingerprints and photographs, and the records of the arrest or custody of the child that was the basis for the taking of the fingerprints and photographs, shall be retained in accordance with division (B)(3) of this section. During the initial period of retention, the fingerprints and photographs of a child, copies of the fingerprints and photographs, and records of the arrest or custody of the child shall be used or released only in accordance with division (C) of this section. At the expiration of the initial period for which fingerprints and photographs of a child, copies of fingerprints and photographs of a child, and records of the arrest or custody of a child may be retained under this division, if no complaint is pending against the child in relation to the act for which the fingerprints and photographs originally were obtained or taken and if the child has neither been adjudicated a delinquent child for the

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commission of that act nor been convicted of or pleaded guilty to a criminal offense based on that act subsequent to a transfer of the child's case for criminal prosecution pursuant to section 2151.26 of the Revised Code, the fingerprints and photographs of the child, all copies of the fingerprints and photographs, and all records of the arrest or custody of the child that was the basis of the taking of the fingerprints and photographs shall be removed from the file and delivered to the juvenile court.

- (2) If, at the expiration of the initial period of retention set forth in division (B)(1) of this section, a complaint is pending against the child in relation to the act for which the fingerprints and photographs originally were obtained or the child either has been adjudicated a delinquent child for the commission of an act other than an act described in division (B)(3) of this section or has been convicted of or pleaded guilty to a criminal offense for the commission of an act other than an act described in division (B)(3) of this section subsequent to transfer of the child's case, the fingerprints and photographs of the child, copies of the fingerprints and photographs, and the records of the arrest or custody of the child that was the basis of the taking of the fingerprints and photographs may further be retained, subject to division (B)(4) of this section, until the earlier of the expiration of two years after the date on which the fingerprints or photographs were taken or the child attains eighteen years of age, except that, if the child is adjudicated a delinquent child for the commission of an act described in division (B)(3) of this section or is convicted of or pleads guilty to a criminal offense for the commission of an act described in division (B)(3) of this section, the fingerprints and photographs, and the records of the arrest or custody of the child that was the basis for the taking of the fingerprints and photographs, shall be retained in accordance with division (B)(3) of this section.

Except as otherwise provided in division (B)(3) of this section, during this additional period of retention, the fingerprints and photographs of a child, copies of the fingerprints and photographs of a child, and records of the arrest or custody of a child shall be used or released only in accordance with division (C) of this section. At the expiration of the additional period, if no complaint is pending against the child in relation to the act for which the fingerprints originally were obtained or taken or in relation to another act for which the fingerprints were used as authorized by division (C) of this section and that would be a felony if committed by an adult, the fingerprints of the child, all copies of the fingerprints, and all records of the arrest or custody of the child that was the basis of the taking of the fingerprints shall be removed from the file and delivered to the juvenile court, and, if no complaint is pending against the child concerning the act for which the photographs originally were obtained or taken or concerning an act that would be a felony if committed by an adult, the photographs and all copies of the photographs, and, if no fingerprints were taken at the time the photographs were taken, all records of the arrest or custody that was the basis of the taking of the photographs shall be removed from the file and delivered to the juvenile court. In either case, if, at the expiration of the applicable additional period, such a complaint is pending against the child, the photographs and copies of the photographs of the child, or the fingerprints and copies of the fingerprints of the child, whichever is applicable, and the records of the arrest or custody of the child may be retained, subject to division (B)(4) of this section, until final disposition of the complaint, and upon final disposition of the complaint, they shall be removed from the file and delivered to the juvenile court, except that, if the child is adjudicated a delinquent child for the commission of an act described in division (B)(3) of this section or is convicted of or pleads guilty to a criminal offense for the commission of an act described in division (B)(3) of this section, the fingerprints and photographs, and the records of the arrest or custody of the child that was the basis for the taking of the fingerprints and photographs, shall be retained in accordance with division (B)(3) of this section.

- (3) If a child is adjudicated a delinquent child for the commission of an act in violation of, or is convicted of or pleads guilty to a criminal offense for the commission of an act that is a violation of, section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.21, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2921.34, or 2921.35 of the Revised Code, section 2913.02 of the Revised Code involving the theft of a motor vehicle, former section 2907.12 of the Revised Code, or an existing or former municipal ordinance or law of this state, another state, or the United States that is substantially equivalent to any of those sections, both of the following apply:

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- (a) Originals and copies of fingerprints and photographs of the child obtained or taken under division (A)(1) of this section, and any records of the arrest or custody that was the basis for the taking of the fingerprints or photographs, may be retained for the period of time specified by the juvenile judge in that judge's grant of consent for the taking of the fingerprints or photographs. Upon the expiration of the specified period, all originals and copies of the fingerprints, photographs, and records shall be delivered to the juvenile court or otherwise disposed of in accordance with any instructions specified by the juvenile judge in that judge's grant of consent. During the period of retention of the photographs and records, all originals and copies of them shall be retained in a file separate and apart from all photographs taken of adults. During the period of retention of the fingerprints, all originals and copies of them may be maintained in the files of fingerprints taken of adults. If the juvenile judge who grants consent for the taking of fingerprints and photographs under division (A)(1) of this section does not specify a period of retention in that judge's grant of consent, originals and copies of the fingerprints, photographs, and records may be retained in accordance with this section as if the fingerprints and photographs had been taken under division (A)(2) of this section.
- (b) Originals and copies of fingerprints and photographs taken under division (A)(2) of this section, and any records of the arrest or custody that was the basis for the taking of the fingerprints or photographs, may be retained for the period of time and in the manner specified in division (B)(3)(b) of this section. Prior to the child's attainment of eighteen years of age, all originals and copies of the photographs and records shall be retained and shall be kept in a file separate and apart from all photographs taken of adults. During the period of retention of the fingerprints, all originals and copies of them may be maintained in the files of fingerprints taken of adults. Upon the child's attainment of eighteen years of age, all originals and copies of the fingerprints, photographs, and records shall be disposed of as follows:
- (i) If the juvenile judge issues or previously has issued an order that specifies a manner of disposition of the originals and copies of the fingerprints, photographs, and records, they shall be delivered to the juvenile court or otherwise disposed of in accordance with the order.
- (ii) If the juvenile judge does not issue and has not previously issued an order that specifies a manner of disposition of the originals and copies of the fingerprints not maintained in adult files, photographs, and records, the law enforcement agency, in its discretion, either shall remove all originals and copies of them from the file in which they had been maintained and transfer them to the files that are used for the retention of fingerprints and photographs taken of adults who are arrested for, otherwise taken into custody for, or under investigation for the commission of a criminal offense or shall remove them from the file in which they had been maintained and deliver them to the juvenile court. If the originals and copies of any fingerprints of a child who attains eighteen years of age are maintained in the files of fingerprints taken of adults or if pursuant to division (B)(3)(b)(ii) of this section the agency transfers the originals and copies of any fingerprints not maintained in adult files, photographs, or records to the files that are used for the retention of fingerprints and photographs taken of adults who are arrested for, otherwise taken into custody for, or under investigation for the commission of a criminal offense, the originals and copies of the fingerprints, photographs, and records may be maintained, used, and released after they are maintained in the adult files or after the transfer as if the fingerprints and photographs had been taken of, and as if the records pertained to, an adult who was arrested for, otherwise taken into custody for, or under investigation for the commission of a criminal offense.
- (4) If a sealing or expungement order issued under section 2151.358 [2151.35.8] of the Revised Code requires the sealing or destruction of any fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section or of the records of an arrest or custody of a child that was the basis of the taking of the fingerprints or photographs prior to the expiration of any period for which they otherwise could be retained under division (B)(1), (2), or (3) of this section, the fingerprints, photographs, and arrest or custody records that are subject to the order and all copies of the

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fingerprints, photographs, and arrest or custody records shall be sealed or destroyed in accordance with the order.

- (5) All fingerprints of a child, photographs of a child, records of an arrest or custody of a child, and copies delivered to a juvenile court in accordance with division (B)(1), (2), or (3) of this section shall be destroyed by the court.

(6)

- (a) All photographs of a child and records of an arrest or custody of a child retained pursuant to division (B) of this section and not delivered to a juvenile court shall be kept in a file separate and apart from fingerprints, photographs, and records of an arrest or custody of an adult. All fingerprints of a child retained pursuant to division (B) of this section and not delivered to a juvenile court may be maintained in the files of fingerprints taken of adults.

- (b) If a child who is the subject of photographs or fingerprints is adjudicated a delinquent child for the commission of an act that would be a felony if committed by an adult or is convicted of or pleads guilty to a criminal offense that is a felony, all fingerprints not maintained in the files of fingerprints taken of adults and all photographs of the child, and all records of the arrest or custody of the child that is the basis of the taking of the fingerprints or photographs, that are retained pursuant to division (B) of this section and not delivered to a juvenile court shall be kept in a file separate and apart from fingerprints, photographs, and arrest and custody records of children who have not been adjudicated a delinquent child for the commission of an act that would be a felony if committed by an adult and have not been convicted of or pleaded guilty to a criminal offense that is a felony.

- (C) Until they are delivered to the juvenile court or sealed, transferred in accordance with division (B)(3)(b) of this section, or destroyed pursuant to a sealing or expungement order, the originals and copies of fingerprints and photographs of a child that are obtained or taken pursuant to division (A)(1) or (2) of this section, and the records of the arrest or custody of the child that was the basis of the taking of the fingerprints or photographs, shall be used or released only as follows:

- (1) During the initial thirty-day period of retention, originals and copies of fingerprints and photographs of a child, and records of the arrest or custody of a child, shall be used, prior to the filing of a complaint against the child in relation to the act for which the fingerprints and photographs were originally obtained or taken, only for the investigation of that act and shall be released, prior to the filing of the complaint, only to a court that would have jurisdiction of the child's case under this chapter. Subsequent to the filing of a complaint, originals and copies of fingerprints and photographs of a child, and records of the arrest or custody of a child, shall be used or released during the initial thirty-day period of retention only as provided in division (C)(2)(a), (b), or (c) of this section.

- (2) Originals and copies of fingerprints and photographs of a child, and records of the arrest or custody of a child, that are retained beyond the initial thirty-day period of retention subsequent to the filing of a complaint, a delinquent child adjudication, or a conviction of or guilty plea to a criminal offense shall be used or released only as follows:

- (a) Originals and copies of photographs of a child, and, if no fingerprints were taken at the time the photographs were taken, records of the arrest or custody of the child that was the basis of the taking of the photographs, may be used only as follows:

- (i) They may be used for the investigation of the act for which they originally were obtained or taken; if the child who is the subject of the photographs is a suspect in the investigation, for the investigation of any act that would be an offense if committed by an adult; and for arresting or bringing the child into custody.

- (ii) If the child who is the subject of the photographs is adjudicated a delinquent child for the commission of an act that would be a felony if committed by an adult or is convicted of or pleads guilty to a criminal offense that is a felony as a result of the arrest or custody that was

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the basis of the taking of the photographs, a law enforcement officer may use the photographs for a photo line-up conducted as part of the investigation of any act that would be a felony if committed by an adult, whether or not the child who is the subject of the photographs is a suspect in the investigation. No later than ninety days after a law enforcement officer uses the photographs in a photo line-up, the officer shall return them to the file from which the officer obtained them.

- (b) Originals and copies of fingerprints of a child, and records of the arrest or custody of the child that was the basis of the taking of the fingerprints, may be used only for the investigation of the act for which they originally were obtained or taken; if a child is a suspect in the investigation, for the investigation of another act that would be an offense if committed by an adult; and for arresting or bringing the child into custody.
- (c) Originals and copies of fingerprints, photographs, and records of the arrest or custody that was the basis of the taking of the fingerprints or photographs shall be released only to the following:
 - (i) Law enforcement officers of this state or a political subdivision of this state, upon notification to the juvenile court of the name and address of the law enforcement officer or agency to whom or to which they will be released;
 - (ii) A court that has jurisdiction of the child's case under Chapter 2151. of the Revised Code or subsequent to a transfer of the child's case for criminal prosecution pursuant to section 2151.26 of the Revised Code.
- (D) No person shall knowingly do any of the following:
 - (1) Fingerprint or photograph a child in the investigation of any violation of law other than as provided in division (A)(1) or (2) of this section or in sections 109.57, 109.60, and 109.61 of the Revised Code;
 - (2) Retain fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section, copies of fingerprints or photographs of that nature, or records of the arrest or custody that was the basis of the taking of fingerprints or photographs of that nature other than in accordance with division (B) of this section;
 - (3) Use or release fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section, copies of fingerprints or photographs of that nature, or records of the arrest or custody that was the basis of the taking of fingerprints or photographs of that nature other than in accordance with division (B) or (C) of this section.

History

133 v H 320 (Eff 11-19-69); 135 v S 1 (Eff 1-1-74); 137 v H 315 (Eff 3-15-78); 140 v H 258 (Eff 9-26-84); 144 v H 198 (Eff 10-6-92); 146 v H 1 (Eff 1-1-96); 146 v H 445. Eff 9-3-96.

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